

Memorandum of Understanding Caltrans/Resources Agency

Hearst Ranch, San Luis Obispo County

This is a "Memorandum of Understanding" ("MOU") between the State of California Department of Transportation ("Caltrans") and the State of California Resources Agency involving the acquisition by Caltrans of easement rights ("the scenic easement") for the protection of scenic resources over the coastal lands of the Hearst property between the Mean High Tide and existing State Route 1 in the northern portion of San Luis Obispo County between Post Mile 55 and Post Mile 73 (the "scenic protection area"). This MOU constitutes solely a guide as to the respective intentions and policies of the parties involved. It is not intended to authorize funding of the scenic protection effort, nor is it a legally binding contract.

Background:

A. State Route 1 between the San Luis Obispo City limits and the northern San Luis Obispo County line was designated in 1997 as a "State Scenic Highway." In August 2003, the Federal Highway Administration (FHWA) declared State Route 1 an "All American Road", the highest designation under the National Scenic Byways Program. This segment of State Route 1 connects to another All American Road, the Big Sur Coast Highway – State Route 1 in Monterey County. Together, these two segments of State Route 1 comprise approximately ten percent of the total number of miles of All American Highways nationwide. Pursuant to its designation as a National Scenic Byway, a Corridor Management Plan, identifying the corridor's intrinsic qualities and outlining management strategies for their protection and preservation, has been prepared by the San Luis Obispo Council of Governments. The corridor management plan identifies at least one candidate project for highway realignment (EA 49280K scheduled for 2014 for a construction cost of \$35 million).

B. Caltrans has initiated an effort to preserve the scenic character of the scenic protection area as viewed from State Route 1 as described in the Federal Guidelines for scenic protection by preventing future development that would degrade the existing viewshed and scenic resources. Caltrans is applying for Federal Transportation Enhancement Activities ("TEA") funds that can be used for the acquisition of the scenic easement described above. This application is the initial step that may lead to the programming of funds necessary for the acquisition of the scenic easement, subject to completion of all necessary environmental review.

C. Caltrans and the Resources Agency have a mutual interest in a clear definition of the intended scope, purpose and restrictions of the scenic easement, consistent with the requirements of the TEA program.

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D. In addition to its interest in the protection of scenic resources along State Route 1, Caltrans is also concerned with the need to safely maintain traffic service and operate this highway in the face of continuing erosion of the ocean shoreline. Because of natural conditions, including the naturally steep terrain and severe weather conditions, State Route 1 at certain locations adjacent to the project area has been subject to rock and land slides, storm surges and undercutting by wave action. Caltrans, in conjunction with stakeholders along the coast, is examining coastal bluff erosion trends in the area as they relate to the future operation of the highway and potential measures for the protection thereof. Future highway realignment is not part of or a consideration of the scenic easement acquisition.

E. Caltrans is currently evaluating potential areas of future realignment of State Route 1 in terms of, among other considerations, erosion rates, safety and operations. Currently, specific areas within the relevant Hearst Ranch property holdings have been identified for potential realignment. These locations are as follows:

- Location 1: Between P.M. 55 and P.M. 57.
- Location 2: Between P.M. 60 and P.M. 63.5
- Location 3: Between P.M. 64 and P.M. 66.
- Location 4: Between P.M. 67 and P.M. 69.
- Location 5: Between P.M. 70 and P.M. 71.

F. The California Resources Agency, through three of its departments -- the Department of Parks and Recreation ("State Parks"), the Wildlife Conservation Board ("WCB") and the State Coastal Conservancy ("the Conservancy") -- has been engaged since June 2003 in negotiations with the Hearst Corporation and others concerning a conservation agreement ("the ranch conservation agreement") that would preserve significant wildlife habitat, agriculture, scenic, historic, and recreational resources on the Hearst Ranch. The Hearst Ranch is approximately 82,000 acres in size and is currently an active cattle ranch. The scenic easement would be located within a portion of the area being considered for the ranch conservation agreement.

G. There is a history of cooperation between Caltrans and the Resources Agency.

Understanding of the Parties:

1. Parties. This MOU is made and entered into as of May 12, 2004 by and between Caltrans and the Resources Agency.

2. General Purposes. The purposes of this MOU are to set forth the parties' respective intentions concerning:

- (a) The potential acquisition by Caltrans of the scenic easement during the same time period as the Resources Agency will be negotiating for acquisition of other interests within the scenic protection area.

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(b) The potential future need for Caltrans to realign portions of State Route 1.

(c) Continued cooperation between the parties as accomplishments of the mutual intentions of protection of the resources discussed in this MOU are undertaken.

(d) The need to assure the parties that the scenic easement will be compatible to the greatest extent possible with the potential Resources Agency activities within the scenic protection area, and that the ranch conservation agreement as it relates to the scenic protection area will be in full compliance with federal legislation, policy and guidelines of the Transportation Enhancement program.

The parties are committed to working toward protection of all of the valuable resources associated with the Hearst Ranch, providing appropriate public access opportunities and providing for long-term maintenance of the highway while preserving and protecting the scenic and natural qualities of the highway corridor to the greatest extent possible.

3. The segments of State Route 1 subject to realignment may include a variety of sensitive resources subject to various environmental laws and regulations. All required environmental review will be conducted prior to any final decision to realign State Route 1 and any future realignment of the highway will be designed so as to avoid or minimize impacts to such resources to the extent required by law.

4. The property to the east and west of the subject segments of State Route 1 is located within the California Coastal Zone and as such is subject to the Local Coastal Program ("LCP") of San Luis Obispo County. The parties to this MOU will comply with applicable requirements of the LCP.

5. Nothing in this MOU shall limit Caltrans with respect to its legal rights, duties and obligations regarding the ownership, maintenance and control of State highways, including but not limited to, its right to implement emergency procedures as necessary should the highway be damaged or in a state of imminent danger.

6. The general structure of the respective acquisitions, subject to all necessary approvals and environmental review, is as follows:

(a) Caltrans intends to acquire a scenic easement over the scenic protection area. This scenic easement will be acquired with TEA funds and will contain restrictive covenants as required by federal law to ensure the protection of the scenic resources. The scenic easement will be drafted so as to not specifically preclude within the scenic protection area the California Coastal Trail and other public access facilities that may be compatible with the restrictions governing the use of the TEA funds. Final alignment of the trail will be subject to future environmental review and consultation with the Hearst Corporation and the Resources Agency, independent of the environmental review by Caltrans for the scenic easement acquisition.

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(b) The Hearst Corporation and the Resources Agency may desire to provide public access opportunities on the scenic protection area. To that end, the parties agree to cooperate and to do nothing to preclude passive public access including, but not limited to, development of the California Coastal Trail and related public access facilities, consistent with the scenic easement and applicable law, including applicable federal regulations and guidelines, as well as subject to acquisition of any needed rights from the underlying fee owner.

(c) Caltrans expects to obtain property rights to existing State Route 1 as well as areas potentially required for future relocation as set forth above. The actual relocation will be subject to independent environmental review.

(d) The Resources Agency is negotiating to complete the ranch conservation effort through involvement in acquiring protective rights both east and west of existing State Route 1 and east of any defined relocation areas for State Route 1. In the event Caltrans is successful in securing scenic protection rights west of State Route 1 and relocation rights east of State Route 1, then The Resources Agency will limit its negotiations (a) in the area west of State Route 1 to conservation rights deemed necessary, if any, in addition to the scenic protection secured by Caltrans and public access rights consistent with the scenic protection secured by Caltrans, and (b) in the area east of State Route 1 to the area east of any defined relocation areas for State Route 1.

(e) Caltrans and the Resources Agency will coordinate their efforts in obtaining the scenic easement and the ranch conservation easement. The parties will make best efforts to complete negotiations and appraisals on a schedule agreeable to both parties and the Hearst Corporation. Caltrans will avoid to the greatest extent possible, taking any action that would prevent the Resources Agency and its departments from making improvements within the scenic protection area for the purpose of providing and managing public access to the shoreline, to the maximum extent permitted by the scenic easement.

(f) Should either party not secure agreement with each other or with the Hearst Corporation prior to August 2004, Caltrans may proceed to final acquisition and release of scenic protection details after consultation with the Resources Agency.

7. The parties understand that the scenic easement will contain the following requirements, consistent with Federal Highway Administration guidelines:

(a) No development shall be permitted that would be inconsistent with the viewshed protection requirements of the San Luis Obispo County LCP.

(b) No development shall be permitted that would result in a significant alteration or degradation of the scenic views of or across the scenic protection area as seen by users of State Route 1. The scenic easement will prohibit in the scenic protection area all development except minor, non-impacting improvements for site restoration or public access as provided in subparagraphs (c) and (d) below.

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(c) The scenic easement will not prohibit alteration of existing vegetation for the purpose of protection, restoration, or enhancement of wildlife habitat.

(d) The scenic easement will not prohibit minor improvements for the purpose of facilitating public access to and along the shoreline, including but not limited to the California Coastal Trail system, where such improvements meet the requirements of (a) and (b) above; are sited and designed to avoid or minimize any visual impacts; incorporate any mitigation features imposed by a regulatory agency; and receive any review and approval required under the California Coastal Act, California Environmental Quality Act and related statutes.

(e) These minor improvements may include public access support facilities that would not affect the scenic resources, though no specific development will be authorized by the language of the scenic easement itself.

(f) Caltrans will be the agency responsible for application and enforcement of the provisions of the scenic easement.

8. The parties acknowledge the interest of members of the public in understanding and commenting on in advance the terms of any future public acquisition of property interests over any portion of the Hearst Ranch, including, but not limited to, the scenic easement and the ranch conservation agreement. The Resources Agency has made a commitment to the public release of a detailed description of any proposed Resources Agency acquisition a minimum of 30 days prior to any binding decision to approve such an acquisition agreement. Caltrans will make efforts to follow a similar process, consistent with its own procedures and time constraints. The parties agree to collaborate on issuance of public statements concerning the details of potential acquisitions by both Caltrans and the Resources Agency. The parties agree that the process of public disclosure shall be generally as follows:

(a) Public disclosure of the proposed Resources Agency acquisition agreement and other relevant documents, including a summary of the appraisal of the Resources Agency appraisal of fair market value, would occur a minimum of 30 days prior to a public hearing by the Wildlife Conservation Board, State Coastal Conservancy or Public Works Board. Caltrans will provide to the Resources Agency by July 2004 a draft of its proposed acquisition agreement, including the scenic easement and proposed terms of purchase, for public release in conjunction with the Resources Agency disclosure process. In addition, either party may release details of their respective acquisition efforts after consultation with each other and with the Hearst Corporation. Nothing in this MOU would require Caltrans to release its appraisal of fair market value except as required by law.

(b) Caltrans expects to hold public hearings in May 2004 for programming and allocation of TEA funds required for the scenic easement acquisitions. Caltrans will present all required information at those hearings.

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(c) Caltrans expects to complete all necessary programming procedures, environmental review and appraisals concerning the scenic easement by August 2004.

(d) The Resources Agency and Caltrans will exchange relevant information on a regular basis.


9. Caltrans shall be the lead on all matters pertaining to scenic protection acquired with TEA funds and future highway needs, and the Resources Agency shall be the lead on all matters pertaining to the Hearst Ranch Conservation effort.

10. Caltrans will not complete acquisition of the scenic easement without approval from the Secretary of the Business, Transportation and Housing Agency and coordination with the Secretary of the Resources Agency, ~~except that, should either party not secure~~ agreement with each other or with the Hearst Corporation prior to August 2004, Caltrans may proceed to final acquisition after approval by the Secretary of Business, Transportation and Housing and consultation with the Resources Agency

11. The Resources Agency will take all necessary steps to ensure that any acquisitions made by the Resources Agency, its departments or conservancies, including any grants provided to other organizations, will not preclude the ability of the Caltrans to perform maintenance of existing or future State Route 1 and/or to conduct the potential highway realignments discussed above. Any such acquisitions will acknowledge the potential realignment and maintenance and will reflect that the acquisitions are not intended to give rise to any future application of section 4(f) of the Federal Department of Transportation Act.


12. This MOU may be executed in two counterparts, each of which may be deemed an original, but both of which shall constitute one and the same document. The parties shall execute two original copies of the MOU, and one shall be distributed to each party.

THE CALIFORNIA RESOURCES AGENCY



Michael Chrisman, Secretary

CALIFORNIA DEPARTMENT OF TRANSPORTATION



Tony Harris, Director (Acting)